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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 001006

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SUBJECT: UN MOVES FORWARD ON IRAQI HUMAN RIGHTS COMMISSION

REF: BAGHDAD 738

Classified By: Political Counselor Robert S. Ford for reasons 1.4 (B) and (D).

¶1. (C) Summary. UNAMI Human Rights Chief Gianni Magazzeni explained to PolOffs March 17 that the UN was spearheading efforts with Iraqi Government leaders to establish a Human Rights Commission in Iraq by fall 2006 (reftel). The Commission, mandated in Article 50 of the TAL (and reconfirmed in Article 102 of the Constitution), has not yet been established and has no funding. According to Magazzeni, an important first step was realized March 10 when thirty members of Iraqi government and civil society, including the Acting Minister of Human Rights, were brought together to agree on the guiding principles. The Commission, whose relationship with the Human Rights Ministry is still to be determined, would focus on receiving and investigating human rights abuses complaints. Magazzeni expressed confidence that these players would be able to develop and shepherd implementing legislation. Funding the commission will be a challenge, and the UN official anticipates that the international donor community would have to provide help to make the Commission viable. End Summary.

COMMISSION BUY-IN AND STRUCTURE

¶2. (C) UNAMI Human Rights Chief Gianni Magazzeni told PolOffs March 17 that guiding principles for a Human Rights Commission that would investigate human rights abuses was approved by Iraqi leaders in a March 10 conference. Among those who attended were Acting Minister of Human Rights Narmeen Othman, representatives from the ministries of defense, interior and justice as well as parliamentarians from the Shia Islamist Coalition, Kurdish Alliance and Tawafuq blocs and members of Iraqi civil society.

¶3. (C) Magazzeni noted to Poloffs that while the structure of the Commission had not yet been determined, the Commission would ideally consist of 7-10 Commissioners. To be credible, Magazzeni said these Commissioners would have to be selected in some type of a competitive basis and be representative of all segments of society. As he envisioned it, the Commission would have a mandate to receive and investigate human rights complaints and initiate public hearings. To do this effectively, he said, the Commission would have to have the power to investigate, subpoena documents and testimony, and it would have to be independent. This independence would include the ability to select staff.

IMPLEMENTATION: UNAMI HOPES TO MOVE FAST

¶4. (C) Magazzeni presented PolOff with a tentative and, in his words, optimistic timeline for this proposal:

-- April 2006: First draft of legislation prepared by subgroup of Cyprus attendees

-- May 2006: Stakeholder comments on legislation

-- June 2006: Council of Ministers sends bill to parliament for action

-- July 2006: Appointment process begins

-- September 2006: parliament votes on members

-- October 2006: Commission established

¶5. (C) Magazzeni underlined that, while there is sufficient buy-in to develop the implementing legislation for this Commission, the GoI would most likely be unwilling to commit adequate funding to make this Commission viable. He did not mention how much funding would be needed, but Magazzeni said the UN and the international donor community would have to be the primary source of funding for up to the first 3 years. According to Magazzeni, Canada has already shown an active interest and he envisions them taking the lead in a core group of donors to set up the initial

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funding.

OVERLAP WITH HR MINISTRY?

¶6. (C) When PolOffs asked the extent to which there would be overlap between this Commission and the Ministry of Human Rights, Magazzeni responded by saying that the drafting process for the implementing legislation would determine if there indeed would be some redundancy, and that involvement of the Acting Minister of Human Rights as well as other Ministry representatives would help minimize any redundancies. PolOffs expressed support for the concept of the Commission.

COMMENT

¶7. (SBU) Both the Human Rights Ministry and the Commission are provided with distinct mandates through their authorizing legislation. Under Article 50 of the TAL, the Commission is to be empowered to investigate human rights complaints, including allegations that the conduct of the government is arbitrary or against the law. The Ministry, in contrast, is charged under CPA Order 60 with establishing human rights services and programs, as well as with being the governmental liaison to outside organizations. Despite these separate mandates, there will invariably be some overlap, particularly as the Ministry has assumed investigative responsibilities in the absence of a functioning Commission (for example, with respect to prison inspections).

¶8. (C) The establishment of an independent authority empowered to investigate complaints can only strengthen institutional commitment to human rights.

In a country where the average Iraqi is often fearful of going to the police to complain about wrongdoing, the Commission could provide a check to Iraq Security Forces abuses. The key to whether such a Commission is effective depends on two factors. First, the parliament must be willing to pass legislation that is sufficiently empowering. Second, the Commission must have the independence, capability and political will to conduct effective, and when necessary, politically sensitive investigations. We will encourage the parliament to look seriously at the UN proposals and find ways to move the commission idea forward.

KHALILZAD